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June 4, 1999

William P. Yellowtail
Administrator
U.S. Environmental Protection Agency, Region 8
999 18th Street, Suite 500
Denver, CO 80202-2466

Dear Administrator Yellowtail:

This is in response to your letter of May 11, 1999, requesting my concurrence with adding the Upper Tenmile Creek Mining Area and Basin Creek Mining Area to the National Priorities List (NPL) for cleanup. I share your interest in cleaning up these watersheds to assure long-term protection of the city of Helena's principal water supply and to improve the environmental conditions and habitat in these areas.

I know of the Environmental Protection Agency's (EPA) recent efforts to coordinate closely with State and local officials and with local landowners. I commend the steps that your agency has taken to inform Montana's citizens of the implications of an NPL listing and to solicit local support and interest in the opportunity to cleanup these watersheds with federal assistance. I also appreciate that you have sought my concurrence with this potential NPL listing.

As you know, the Montana Department of Environmental Quality (DEQ) has accomplished some cleanup in both the Tenmile and Basin Creek watersheds, but the State's current resources limit the solution to only a small part of the problem. Therefore, on the basis of information presented to me, I see a great opportunity to achieve comprehensive cleanup in these historic mining areas if the EPA decides to proceed with adding these areas to the NPL. I will support inclusion of these areas on the NPL, conditioned on the EPA agreeing to the following caveats, which are fundamental to gaining my full support.

I understand that the State must commit to match Superfund remedial construction costs with a 10 percent contribution. The State proposes to match remedial construction costs with in-kind services and will insist that the EPA credit the State for any expenditures it makes for mine reclamation and water treatment at the Basin Creek Mine facility. The State also seeks the EPA's agreement to credit the State for any expenditures for other abandoned mine reclamation work that the State may undertake in these watersheds if that work contributes to the overall cleanup of these areas.

I also respectfully request that the EPA consider the expenditure of funds for mine reclamation at the Basin Creek Mine and the payment of pro rata operation and maintenance expenses for abandoned mine waste placed into the repository to fulfill all of the state's financial obligation for long-term operation and maintenance (O&M) requirements for the final Superfund remedy. Included in this condition of concurrence is the expectation that the EPA will develop a long-term water management plan that contemplates minimal and cost-effective O&M.

Because private lands comprising the Basin Creek facility may become abandoned property when the Chapter 7 Bankruptcy is dismissed within the next two years, it is critical that the EPA agree to resolve title and liability for the Luttrell Pit and the permitted minesite before June 30, 2001. We request that the EPA contemplate transfer of ownership of these properties to the U.S. Forest Service or another public or private entity free and clear of liens except for environmental encumbrances.

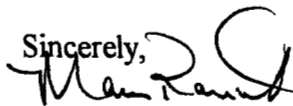
I respectfully request EPA to coordinate closely with the DEQ regarding the delineation of the actual listed area boundaries of any NPL site, including, but not limited to, areas of the currently permitted Basin Creek Mine, to include in the listed area.

Before a decision on Superfund designation for these areas, I urge the EPA to prepare plans to implement aggressive road dust abatement measures and best management practices to minimize air and water quality impacts during remedial construction.

My support of the EPA's proposal is also contingent on the EPA's commitment to allow the ongoing mine reclamation by the Chapter 7 bankruptcy trustee to proceed as planned; to continue coordinating closely with the DEQ and local entities throughout the Superfund remedial process; and that the EPA agrees to provide the State substantial and meaningful involvement for the life of the project. Implicit in this contingency is my expectation that the EPA will involve the State and local government officials in scheduling and work priorities to minimize disruption to essential services (e.g., treatment and distribution of water to the city of Helena).

Finally, I am also aware of plans that the U.S. Forest Service and the Bureau of Land Management have for removal actions or reclamation of certain abandoned mining properties on federal land within the Tenmile and Basin Creek watersheds. I urge the EPA to coordinate closely with these other federal agencies to ensure that their progress is not hindered in any way.

Please contact Mark Simonich to discuss these issues further, if necessary. Thank you for giving me the opportunity to speak for the citizens of Montana on this important matter.

Sincerely,

MARC RACICOT
Governor

cc: Mark Simonich, DEQ Director